

## **REMARKS**

By this Amendment After Final, Applicants have amended claims 1-3. No new matter has been added. Claims 1-17 are pending in the application.

### **I. Section 103(a) Claim Rejection Based on Koga et al. in view of Fiaschetti et al.**

In the final Office Action, claims 1, 4, and 8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Koga et al. (U.S. Patent No. 5,670,830) in combination with Fiaschetti et al. (U.S. Patent No. 5,901,684). Claim 1 is the only independent claim rejected under § 103(a) based on the Office Action's hypothetical combination of the Koga et al. and Fiaschetti et al. references, and Applicants have amended independent claim 1, obviating the § 103(a) rejection based on Koga et al. and Fiaschetti et al. Furthermore, Applicants respectfully submit that Koga et al. and Fiaschetti et al., regardless of whether they are viewed individually or in combination, fail to disclose or suggest all of the subject matter recited in amended independent claim 1.

Applicants' amended independent claim 1 is directed to a power management system for a machine, including, among other recitations, "a power source configured to receive a fuel supply based on a fuel curve associated with the machine; . . . and a control system . . . , wherein the control system is operative to modify at least a portion of the fuel curve to reduce the fuel supply when a load condition of the power source exceeds a desired amount." Neither the Koga et al. reference nor the Fiaschetti et al. reference discloses or suggests at least that subject matter recited in amended

independent claim 1. For at least this reason, amended independent claim 1 is patentably distinguishable from the Koga et al. and Fiaschetti et al. references.

**II. Section 103(a) Claim Rejection Based on Koga et al. in view of Fiaschetti et al. and Rini et al.**

In the final Office Action, claims 2, 3, 9, 13, 15, and 17 were rejected under 35 U.S.C. § 103(a) based on Koga et al. in combination with Fiaschetti et al. and Rini et al. (U.S. Patent No. 5,121,324). Claims 2 and 3 are the only independent claims rejected under § 103(a) based on the Office Action's hypothetical combination of the Koga et al., Fiaschetti et al., and Rini et al. references, and Applicants have amended independent claims 2 and 3, obviating the § 103(a) rejection based on the final Office Action's hypothetical combination of the Koga et al., Fiaschetti et al., and Rini et al. references. Moreover, Applicants respectfully submit that the Koga et al., Fiaschetti et al., and Rini et al. references, regardless of whether they are viewed individually or in combination, fail to disclose or suggest all of the subject matter recited in either amended independent claim 2 or amended independent claim 3.

**A. Amended Independent Claim 2**

Applicants' amended independent claim 2 is directed to a power management system for a machine, including, among other recitations, "a power source configured to receive a fuel supply based on a fuel supply limit associated with the machine; . . . and a control system in communication with the power source and the transmission, the control system being configured to modify the fuel supply limit to reduce the fuel supply,

the fuel supply limit being regulated based on rack position and a load condition of the power source exceeding a desired amount.” The Koga et al., Fiaschetti et al., and Rini et al. references, regardless of whether they are viewed individually or in combination, fail to disclose or suggest at least that subject matter recited in amended independent claim 2. For at least this reason, amended independent claim 2 is patentably distinguishable from the Koga et al., Fiaschetti et al., and Rini et al. references.

#### **B. Amended Independent Claim 3**

Applicants’ amended independent claim 3 is directed to a method for operating a power management system, including, among other recitations, “modifying [a] fuel supply limit to reduce the fuel supply being supplied to [a] power source based on rack position and a load condition of the power source exceeding a desired amount.” The Koga et al., Fiaschetti et al., and Rini et al. references, regardless of whether they are viewed individually or in combination, fail to disclose or suggest at least that subject matter recited in amended independent claim 3. For at least this reason, amended independent claim 3 is patentably distinguishable from the Koga et al., Fiaschetti et al., and Rini et al. references.

#### **III. Section 103(a) Rejections of Dependent Claims 5-7, 10-12, 14, and 16**

In the final Office Action, dependent claims 5-7, 10-12, 14, and 16 were rejected under 35 U.S.C. § 103(a) based on Koga et al. and Fiaschetti et al. in combination with one or more of the following: Manring (U.S. Pat. App. Pub. No. US 2002/0133279); Rini et al.; and Schimmel et al. (U.S. Patent No. 4,885,690). Those claims each depend

from one of amended independent claims 1, 2, and 3. Therefore, those dependent claims should be allowable for at least the same reasons their corresponding independent claim is allowable.

#### **IV. Conclusion**

As outlined above, amended independent claims 1-3 should be allowable. Dependent claims 4-17 each depend from one of allowable independent claims 1-3. Therefore, each of those dependent claims should be allowable for the same reasons their corresponding independent claim is allowable as well as by virtue of their recitations of additional novel and non-obvious subject matter.

Applicants respectfully request entry of the claim amendments included in this Amendment After Final, reconsideration of this application, withdrawal of the outstanding claim rejections, and allowance of claims 1-17.

If the Examiner believes that a telephone conversation might advance prosecution, the Examiner is cordially invited to call Applicants' undersigned attorney at (571) 203-2739.

Applicants respectfully submit that the final Office Action contains a number of assertions concerning the related art and the claims. Regardless of whether those assertions are addressed specifically herein, Applicants respectfully decline to necessarily subscribe to them.

Please grant any extensions of time required to enter this response and charge  
any additional required fees to our Deposit Account No. 6-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: June 14, 2006

By: 

Christopher T. Kent  
Reg. No. 48,216